

## National Foundation on the Arts and the Humanities

## § 1156.21

(1) The Chairperson has advised the recipient of its failure to comply with the Act and the regulations in this part and has determined that voluntary compliance cannot be obtained.

(2) Thirty days have elapsed after the Chairperson has sent a written report of the circumstances and grounds of the action to the committees of the Congress having legislative jurisdiction over the Federal program or activity involved. The Chairperson will file a report whenever any action is taken under paragraph (a) of this section.

(d) The Chairperson also may defer granting new Federal financial assistance from the Endowment to a recipient when a hearing under paragraph (a)(1) of this section is initiated.

(1) New Federal financial assistance from the Endowment includes all assistance for which the Endowment requires an application or approval, including renewal or continuation of existing activities, or authorization of new activities, during the deferral period. New Federal financial assistance from the Endowment does not include assistance approved prior to the beginning of a termination hearing under paragraph (a)(1) of this section or increases in funding as a result of changed computation of formula awards.

(2) The Endowment will not begin a deferral until the recipient has received a notice of an opportunity for a hearing under paragraph (a)(1) of this section. The Endowment will not continue a deferral for more than 60 days unless a hearing has begun within that time or the time for beginning the hearing has been extended by mutual consent of the recipient and the Chairperson. The Endowment will not continue a deferral for more than 30 days after the close of the hearing, unless the hearing results in a finding against the recipient. If the hearing results in a finding against the recipient, the Endowment must terminate funds.

### § 1156.20 Alternate funds disbursement procedure.

(a) When the endowment withholds funds from a recipient under the regulations in this part, the Chairperson may disburse the withheld funds directly to an alternate recipient other-

wise eligible for Endowment support: any public or nonprofit private organization or agency, or State or political subdivision of the State.

(b) The Chairperson will require any alternate recipient to demonstrate:

(1) The ability to comply with the regulations in this part; and

(2) The ability to achieve the goals of the Federal statute authorizing the program or the activity.

### § 1156.21 Exhaustion of administrative remedies.

(a) A complainant may file a civil action following the exhaustion of administrative remedies under the Act. Administrative remedies are exhausted if:

(1) 180 days have elapsed since the complainant filed the complaint and the Endowment has made no finding with regard to the complaint; or

(2) The Endowment issues a finding in favor of the recipient.

(b) If the Endowment fails to make a finding within 180 days or issues a finding in favor of the recipient, the Endowment will:

(1) Promptly advise the complainant if either of the conditions of paragraph (a) of this section has been met;

(2) Advise the complainant of his or her right to bring a civil action for injunctive relief that will effect the purpose of the Act;

(3) Inform the complainant:

(i) That the complainant may bring a civil action only in the United States district court for the district in which the recipient is located or transacts business;

(ii) That a complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but that the complainant must demand these costs in the complaint;

(iii) That before commencing the action the complainant shall give 30 days notice by registered mail to the Chairperson of the Endowment, the Secretary, the Attorney General of the United States, and the recipient;

(iv) That the notice must state: the alleged violation of the Act; the relief requested; the court in which the complainant is bringing the action; and whether or not the attorney's fees are